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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,536	10/29/1999	RENE LEERMAKERS	PHA-23.819	7444

24737 7590 01/05/2004		EXAMINER
PHILIPS INTELLECTUAL PROPERTY & STANDARDS		HO, CHUONG T
P.O. BOX 3001		
BRIARCLIFF MANOR, NY 10510	ART UNIT	PAPER NUMBER
	2664	

DATE MAILED: 01/05/2004   16

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 December 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-22 and 24-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-22 and 24-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.   6) ☐ Other: .

1.   The Amendment filed 12/10/03 have been entered and made of record.

2.   Applicant's Amendment filed 12/10/03 have been fully considered but are moot in view

of the new ground(s) of rejection..

3.   Claims 1-2, 4-22, 24-31 are pending.

4.   Applicant's request for reconsideration of the finality of the rejection of the last Office

action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

5.   Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter

"wherein the two-way communications link includes means for simultaneous broadcast of a

plurality of different software applications via a plurality of broadcast channels in

communication with said return channel, and each respective portable client including selective

tuning capability to selectively receive any of the plurality of channels over the return channel"

which was not described in the specification in such a way as to reasonably convey to one skilled

in the relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. "wherein the two-way communications link includes means for simultaneous

broadcast of a plurality of different software applications via a plurality of broadcast channels in

communication with said return channel, and each respective portable client including selective

tuning capability to selectively receive any of the plurality of channels over the return channel"

was not described in the specification .

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

7.   Claims 1-2, 4-22, 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Arai et al. (U.S.Patent No. 6,532,591 B1), in view of Dillon (U.S.Patent No. 6,571,296) and

further in view of Casagrande et al. (U.S.Patent No. 6,049,892).

In the claims 1, 21, Arai et al. discloses a software download system in which a

computer software product such as a computer program is download with a broadcasting

program from a center station (server) to each terminal (client) through a communication

satellite, a broadcast satellite or a terrestrinal television broadcasting service in a digital

broadcasting (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31, the user (the client)

can select one or more particular software product in cases where the user desires to download

the particular software products from the center station (server)); comprising:

♦   a server system that stores software application (col. 6, lines 43-46, col. 9, lines 29-31,

col. 12, lines 33-37);

♦   a broadcast system that broadcasts the software application (col. 6, lines 43-46, col. 9,

lines 29-31, col. 12, lines 33-37);

◆   a multiplicity of portable clients that each include a receiver having a tuner that is

selectively tunable to receive a selected one of the software applications broadcast by the

broadcast system (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37);

◆   a two way communication link between the server system and each of the multiplicity of

portable clients, wherein the two-way communications link includes a forward channel

over which the respective portable client can transmit client data to the server system, and

a return channel over which the server can transmit system data to the respective portable

client (col. 6, lines 43-46, col. 9, lines 29-31, col. 12, lines 33-37);

◆   wherein the server system includes a processor for enabling users to access a menu (guide

table) of the software applications for selection (col. 6, lines 43-46, col. 9, lines 29-31,

col. 12, lines 33-37).

However, Arai et al. is silent to disclosing a two-way communications link separate from

broadcast system broadcasting application, two-way communications link being arranged betwen

the server system and each of the multiplicity of multiple clients.

Dillon (U.S.Patent No. 6,571,296) discloses a two-way communications link separate

from broadcast system broadcasting application, two-way communications link being arranged

betwen the server system (140) and each of the multiplicity of multiple clients (110) (see col. 1,

lines 65-67, col. 2, lines 1-7).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to made to modify Arai's system with the teaching of Dillon to provide a two-way

communications link separate from broadcast system broadcasting application in order to recover

the missing (corruped) data from the broadcast system.

However, the combined system (Arai-Dillon) does not disclose to retransmit

predetermined portions of lost/corrupted data that has been transmitted by server system, with a

request for retransmission of missing/corrupted data.

Casagrande et al. discloses the download of a data from a server computer to a client is

monitored by the client. The download is restarted automatically if a failure occurs. A failure my

be a timeout, a loss of a connection, data errors, or other errors that terminate the download. The

download may be restarted by instructing the server to start reading from a specified offset

corresponding to an amount of data was received reliably by the client, so that data is not

unnecessarily retransmitted (see abstract); comprising:

♦   the two-way communications link includes for simultaneous broadcast of a plurality of

        different software applications via a plurality of broadcast channels in communication

        with return channel, and each respective portable client including selectively tuning

        capability to selectively receive any of the plurality of channels over the return channels

        (see col. 2, lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12);

♦   to retransmit predetermined portions of lost/corrupted data that has been transmitted by

        server system, with a request for retransmission of missing/corrupted data (see col. 2,

        lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the combined system (Arai-Dillon) with the teaching of Casagrande to

retransmit predetermined portions of lost/corrupted data that has been transmitted by server

system, with a request for retransmission of missing/corrupted data in order to increase the

likehood of success of the download and eliminate unneccessary data transfer (see Casagrande ,

col. 5, lines 12-13).

8.   In the claim 2, Arai et al. discloses the broadcast system is a wireless broadcast system

(see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

9.   In the claims 4, 17, Arai et al. discloses each of the portable clients includes a modem for

establishing the two-way communications link (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9,

lines 29-31).

10.   In the claims 5, 6, 8, 16, 24, 25, 26, Arai et al. discloses the modem of each of the

portable clients is a wireless modem (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-

31).

11.   In the claim 7, Arai et al. discloses the broadcast system broadcast the software

applications over different channels each occupying a different respective frequency band (see

col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

12.   In the claims 9, 22, Arai discloses the tuner of the receiver of each of the multiplicity of

portable clients is selectively tunable to any selected one of the plurality of different frequency

bands in order to receive one or more selected one of the software applications broadcasted by

the broadcast system (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

13.   In the claims 10, Arai discloses a two-way communications link between the server

system and each of the multiplicity of portable clients, wherein the two-way communications link

includes a forward channel over which the respective portable client can transmit client data to

the server system, and a return channel over which the server system (the source system 11, 11')

can transmit system data to the respective portable client (see col. 1, lines 10-13, col. 6, lines 43-

46, col. 9, lines 29-31).

14.   In the claim 11, Arai discloses the two-way communications link between the server

system and each of the multiplicity of portable clients is a telephone connection (see col. 1, lines

10-13, col. 6, lines 43-46, col. 9, lines 29-31).

15.   In the claim 12, Arai discloses each of the portable clients is a portable data

communication device (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

16.   In the claim 13, Arai discloses each of the portable clients includes a user-interface that

enables a user to select one of the broadcasted software applications for downloading, and a

processing for executing the downloaded software application (see col. 1, lines 10-13, col. 6,

lines 43-46, col. 9, lines 29-31).

17.   In the claim 14, Arai discloses the broadcast system broadcasts the software applications

over different channels each occupying a different respective frequency band (see col. 1, lines 10-

13, col. 6, lines 43-46, col. 9, lines 29-31)

18.   In the claim 15, Arai discloses a two-way communications link between the server

system and each of the multiplicity of portable clients, wherein the two-way communications link

includes a forward channel over which the respective portable client can transmit client data to

the server system, and a return channel over which the server system can transmit system data to

the respective portable client (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

19.   In the claims 18, 27, Arai discloses instructions for supervising the downloading of

software applications (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

20.   In the claims 19, 28, Casagrande et al. (U.S.Patent No. 6,049,892) discloses request for

unrecoverable software application data, and the system data include the unrecoverable software

application data (see col. 2, lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12).

21.   In the claims 20, 29, Arai discloses the client data includes client software download

request data, and the system data includes download control data issued in response to the client

software download request data (see col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

22.   In the claim 30, Arai discloses the broadcast system broadcasts the software applications

over different channels each occupying a different respective frequency band; the tuner is

selectively tunable to any selected one of the plurality of different frequency bands in order to

receive the selected one of the software applications broadcasted by the broadcast system (see

col. 1, lines 10-13, col. 6, lines 43-46, col. 9, lines 29-31).

23.   Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Metz et al.

(U.S.Patent No.5,978,855), in view of Dillon (U.S.Patent No. 6,571,296) and further in view of

Casagrande et al. (U.S.Patent No. 6,049,892)

In the claim 31, Metz et al. discloses the system provides for downloading application

software and transmitting audio/video information through one channel of a digital broadcast

network; comprising:

♦   a server system that stores software application (see figure 1, col. 9, lines 6-7, server 12

        includes executable application software or code);

♦   a broadcast system (source system 11, 11') that broadcasts the software application (see

        figure 1, col.9, lines 18-22, source system 11 offers a plurality of broadcast programs

        from source 13 and broadcasts software for the downloading service. Other source system

        such as system 11' may be identical to system 11 and offer both broadcast programming

        and software);

♦   a multiplicity of independent portable clients ("PDA" , see col. 26, lines 1-4) that each

        include a receiver having a tuner (see col.5, line 60) that is selectively tunable to receive a

        selected one of the plurality of software applications be simultaneously broadcast by the

        broadcast system over a return channel from the broadcast system (see col. 6, lines 10-20,

        the application software comprises executable code for controlling operations of a digital

        set-top terminal in response to user inputs and a plurality of function calls for calling

        predetermined network communications function of software were resident in the digital

set-top terminal. The functions calls include a channel change function call, and a

function call for establishment of a two-way low-speed data communication. Examples of

the storage medium include the random access memory in the digital set-top terminal and

a memory within a software server (e.g. coupled to a communication network for

broadcast of the software);

♦   billing users a fee for receiving a selected one of the software applications (see col. 26,

lines 25-33, figure 6 also shows the DET 102 including a magnetic card reader 153

connected to the microprocessor 110. This reader 153 could be used to scan credet card

information encoded on magnetic strips on commonly available credit cards. In home

shopping, and purchasing service, controlled by the downloaded software, the user would

scan his or her own credit card through the magnetic card reader 153 as part of the

payment operations. The reader could also have magnetic write capabilities to perform

debit card operations);

♦   a two way communication link between the server system (source system 11, 11') and

each of the multiplicity of portable clients, wherein the two-way communications link

includes a forward channel over which the respective portable client can transmit client

data to the server system, and a return channel over which the server can transmit system

data to the respective portable client (see col.9, lines 60-65, the operating system and

resident application provide all communications to nodes of the network 15, 16, for

example to select broadcast channels and to establish two-way data communications);

◆ wherein the two way communication link includes for simultaneous broadcast of a plurality of different software applications via a plurality of broadcast channels in communication with return channel (see col.9, lines 60-65).

However, Metz et al. is silent to disclosing wherein the server system receives a request for broadcasting the software applications by the portable clients over communication channels separate from the broadcast system.

Dillon (U.S.Patent No. 6,571,296) discloses a two-way communications link separate from broadcast system broadcasting application, two-way communications link being arranged betwen the server system (140) and each of the multiplicity of multiple clients (110) (see col. 1, lines 65-67, col. 2, lines 1-7).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to made to modify the system of Metz with the teaching of Dillon to provide a two-way communications link separate from broadcast system broadcasting application in order to recover the missing (corruped) data from the broadcast system.

However, the combined system (Metz-Dillon) does not disclose to retransmit predetermined portions of lost/corrupted data that has been transmitted by server system, with a request for retransmission of missing/corrupted data.

Casagrande et al. discloses the download of a data from a server computer to a client is monitored by the client. The download is restarted automatically if a failure occurs. A failure my be a timeout, a loss of a connection, data errors, or other errors that terminate the download. The

download may be restarted by instructing the server to start reading from a specified offset

corresponding to an amount of data was received reliably by the client, so that data is not

unnecessarily retransmitted (see abstract); comprisiing:

♦ to retransmit predetermined portions of lost/corrupted data that has been transmitted by

    server system, with a request for retransmission of missing/corrupted data (see col. 2,

    lines 64-67; col. 3, lines 41-55, col. 4, lines 1-15; col. 5, lines 5-12).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the combined system (Metz-Dillon) with the teaching of Casagrande to

retransmit predetermined portions of lost/corrupted data that has been transmitted by server

system, with a request for retransmission of missing/corrupted data in order to increase the

likehood of success of the download and eliminate unneccessary data transfer (see Casagrande ,

col. 5, lines 12-13).

Conclusion

24.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Chuong Ho whose telephone number is (703)306-4529. The examiner can

normally be reached on Monday-Friday from 9am to 3pm.

25.   If attempt to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wellington, Chin, can be reached on (703)305-4633.

Any inquiry of a general nature or relating to the status of this application or proceeding   should

be direct to the group receptionist whose telephone number is (703) 305-3900.

CH

Date 12-27-03

WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600